

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43964

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 825  
 )  
Plaintiff-Respondent, ) Filed: December 27, 2016  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
MASSON CORRY FISHER, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Melissa Moody, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before GUTIERREZ, Judge; GRATTON, Judge;  
and HUSKEY, Judge  
\_\_\_\_\_

PER CURIAM

Masson Corry Fisher pled guilty to felony driving under the influence. I.C. §§ 18-8004 and 18-8005(6). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Fisher to a unified term of ten years, with a minimum period of confinement of four years. The district court retained jurisdiction and sent Fisher to participate in the retained jurisdiction program. Following successful completion of the retained jurisdiction program, the district court suspended the sentence and placed Fisher on probation. Fisher later admitted to violating the terms of his probation. The district court revoked probation and ordered execution

of Fisher's previously suspended sentence. Fisher filed an I.C.R 35 motion, which the district court denied. Fisher appeals.<sup>1</sup>

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including any new information submitted with Fisher's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Fisher's Rule 35 motion is affirmed.

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<sup>1</sup> Fisher also pled guilty to and was sentenced for misdemeanor injury to a child. However, he does not challenge that sentence on appeal.